UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:
EVOR PHILLIPS LEASING COMPANY
SUPERFUND SITE,
OLD BRIDGE TOWNSHIP,
MIDDLESEX COUNTY,
NEW JERSEY

Cabot Corporation;
Carpenter Technology Corporation;
CWM Chemical Services, LLC;
Ford Motor Company;
International Flavors and Fragrances Inc.;
Johnson Matthey Inc.;
RÜTGERS Organics Corporation;
Spectraserv, Inc.;
Spiral Metal Company, LLC; and
Waste Management of New Jersey, Inc.,

Settling Parties

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL DESIGN

U.S. EPA Region 2
CERCLA Docket No. 02-2013-2010

Proceeding under Sections 104, 106, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9606, 9607, and 9622.

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and Cabot Corporation; Carpenter Technology Corporation; CWM Chemical Services, LLC; Ford Motor Company; International Flavor and Fragrances Inc.; Johnson Matthey Inc.; RÜTGERS Organics Corporation; Spectraserv, Inc.; Spiral Metal Company, LLC; and Waste Management of New Jersey, Inc. (collectively "Settling Parties"). This Settlement Agreement provides that Settling Parties shall undertake a Remedial Design ("RD"), including various procedures and technical analyses, to produce a detailed set of plans and specifications for implementation of the remedial action selected in the Record of Decision (the "OU3 ROD") issued by EPA for Operable Unit 3 at the Evor Phillips Leasing Company Superfund Site ("Site") on September 10, 2012. The Site is located in Old Bridge Township, Middlesex County, New Jersey. In addition, Settling Parties shall reimburse the United States for response costs incurred by the United States in connection with the RD for the OU3 ROD.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. §§ 9604, 9606, 9607, and 9622. This authority was delegated to the EPA Administrator by Executive Settlement Agreement 12580 (52 *Fed. Reg.* 2923, Jan. 29, 1987), and further delegated to the EPA Regional Administrators by EPA Delegation No. 14-14-C. This authority was further redelegated by the Regional Administrator of EPA Region 2 to the Director of the Emergency and Remedial Response Division, Region 2, by Delegation Nos. 14-14-C on November 23, 2004.

3. EPA and Settling Parties recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Settling Parties in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Settling Parties agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

4. The objectives of EPA and Settling Parties in entering into this Settlement Agreement are to protect public health or welfare or the environment at the Site by the design of response actions at the Site by Settling Parties, to reimburse response costs of EPA, and to resolve the claims of EPA against Settling Parties as provided in this Settlement Agreement.

5. In accordance with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, *et seq.*, as amended ("NCP"), and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the State of New Jersey (the "State") on October 9, 2012, of negotiations with potentially responsible parties regarding the implementation of the remedial design for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Settlement Agreement.

6. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the Federal and New Jersey natural resource trustees on January 14, 2013, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under federal trusteeship and encouraged the trustee(s) to participate in the negotiation of this Settlement Agreement.

II. PARTIES BOUND

7. This Settlement Agreement applies to and is binding upon EPA and upon Settling Parties and their successors and assigns. Any change in ownership or corporate status of a Settling Party, including, but not limited to, any transfer of assets or real or personal property shall not alter such Settling Party's responsibilities under this Settlement Agreement. The signatories to this Settlement Agreement certify that they are authorized to execute and legally bind the parties they represent.

8. Settling Parties are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Settling Party to implement the requirements of this Settlement Agreement, the remaining Settling Parties shall complete all such requirements.

9. Settling Parties shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Settling Parties shall be responsible for any noncompliance with this Settlement Agreement.

III. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Settlement Agreement or in appendices attached to this Settlement Agreement and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, this period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXX (Effective Date and Subsequent Modification).

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 65 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 101 (Work Takeover).

f. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well-drilling prohibitions.

g. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with CERCLA § 107(a), 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

h. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, *et seq.*, including any amendments thereto.

i. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

j. "Parties" shall mean EPA and the Settling Parties.

k. "Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the Remedial Action, as set forth in the "Remedial Action Objective" section of the OU3 ROD and in Appendix II, Table 8 of the OU3 ROD.

l. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Evor Phillips Leasing Company Superfund Site ("Site"), Operable Unit 3 at the Site and all attachments thereto that the Director of the Emergency and Remedial Response Division, EPA Region 2, signed on September 10, 2012.

m. "Remedial Design" or "RD" shall mean those activities that the Settling Parties shall undertake to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.

n. "Remedial Design Work Plan" shall mean the document developed pursuant to Paragraph 46 of this Settlement Agreement and approved by EPA, and any amendments thereto.

o. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral and includes one or more paragraphs.

p. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Settlement Agreement on Consent and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

q. "Settling Parties" shall mean the signatories to this Settlement Agreement other than EPA.

r. "Site" shall mean the Evor Phillips Leasing Company Superfund Site, encompassing approximately 5.8 acres, located approximately 1 mile west of U.S. Route 9 and 1.5 miles northeast of U.S. Route 18 in Old Bridge Township, Middlesex County, New Jersey, as described in the ROD.

s. "State" shall mean the State of New Jersey.

t. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the Remedial Design, and any modifications made thereto in accordance with this Settlement Agreement, as set forth in Appendix A of this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement.

u. "Waste Material" shall mean: 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6903(27); and 4) any mixture containing any of the constituents noted in 1), 2) or 3), above.

v. "Work" shall mean all activities Settling Parties are required to perform under this Settlement Agreement except those required by Section XIII (Record Retention).

IV. FINDINGS OF FACT

11. The Site consists of approximately 5.8 acres of land in Old Bridge Township, Middlesex County, New Jersey, and is located about one 1 mile west of Route 9, and 1.5 miles northeast of U.S. Route 18. There are 2 buildings on the Site that support a groundwater extraction and treatment system. The Site is surrounded by an 8 foot chain-linked fence. The Site is bounded on the north by Water Works Road, on the northwest by Bordentown Road, and on the northwest and southeast by railroad tracks. The Site sits on a recharge area of the Old Bridge Sand aquifer.

12. The area surrounding the Site is largely industrial. The CPS/Madison Superfund Site is located approximately 800 feet southwest of the Site. The Sayreville municipal well field is

located approximately 1,000 feet southwest of the Site. The Perth Amboy municipal well field is located approximately 1 mile southwest of the Site. A large residential community is located approximately 1 mile from the Site.

13. Waste hauling, waste treatment, waste disposal, silver recovery and oil recovery businesses operated at the Site. During the early 1970's, two waste treatment ponds were located at the Site and used to neutralize acidic and caustic wastewater. Silver recovery operations, which produced silver and cyanide waste, began at the Site in 1971. Oil recovery operations took place at the Site from approximately 1971 to 1975. Industrial waste was hauled to the Site for treatment or disposal during the 1970s.

14. In 1973, the New Jersey Department of Environmental Protection ("NJDEP") inspected the Site and discovered 55-gallon drums abandoned at the Site. In 1975, the two waste treatment ponds at the Site were closed by Settlement Agreement of the Superior Count of New Jersey, Chancery Division, Middlesex County. In 1981, a drum containing shock sensitive material was discovered at the Site

15. The Evor Phillips Leasing Company Superfund Site was listed on the National Priorities List ("NPL") pursuant to CERCLA Section 105, 42 U.S.C. § 9605, in September 1983.

16. From 1986 through 1992, a remedial investigation and feasibility study ("RI/FS") was undertaken at the direction of NJDEP for the Site. Fifty-five surface soil and eighty-six subsurface soil samples were collected during the RI. Metals, volatile organic compounds and base/neutral and acid extractables ("BNA") were identified in soils at the Site in amounts exceeding risk-based action levels. Thirty-seven monitoring wells were installed and sampled during the RI. Volatile organic compounds, metals, bis phthalates and pesticides were among the contaminants found in groundwater beneath the Site. Sampling also revealed the migration of contaminated ground water off-Site. Twenty test-pits were excavated as part of the RI. Drums and drum carcasses were discovered in several test-pits. The contents of at least ten drums were sampled and found to contain hazardous materials including metals and organics.

17. A Record of Decision for operable unit one was issued by EPA on September 29, 1992 (the, "OU1 ROD"). The OU1 ROD included an interim remedy to address contaminated groundwater beneath the Site and final remedy to address drums disposed at the Site.

18. In 1993, NJDEP constructed the interim groundwater extraction and treatment system selected in the OU1 ROD. In 1995, EPA issued an Explanation of Significant Differences notifying the public that the OU1 interim remedy had been modified. Treated ground water would not be re-injected as stated in the OU1 ROD, but instead, would be discharged into the water system operated by the Middlesex County Utilities Authority.

19. In April 2002, a group of potentially responsible parties entered into an administrative consent Settlement Agreement with the State of New Jersey permitting those potentially responsible parties to assume responsibility for the operation and maintenance of the OU1 interim groundwater extraction and treatment system.

20. In 2010, the Settling Parties entered into a settlement agreement and administrative order on consent with EPA to perform a remedial investigation and feasibility study for the final on-site groundwater remedy. That remedial investigation and feasibility study was completed by the Settling Parties in February 2012. Data collected during the remedial investigation indicates that 1,2-dichloroethane and trichloroethene remain in groundwater beneath the Site at elevated levels.

21. Groundwater underlying the Site is considered by the State of New Jersey to be a source of potable water (Class II-A). Volatile organic compounds present in groundwater beneath the Site pose an unacceptable carcinogenic risk to human health.

22. On June 8, 2012, in accordance with Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published, in a major local newspaper of general circulation, a notice of a proposed plan for the final on-site groundwater remedy for the Evor Phillips Leasing Company Superfund Site. The notice of the proposed plan informed the public of a thirty-day comment period from June 8, 2012 through July 9, 2012. On July 6, 2012 and again on July 13, 2012, EPA published a notice in a major local newspaper of general circulation that the public comment period was extended through August 8, 2012. On June 19, 2012, EPA held a public meeting at the Old Bridge Public Library in Middlesex County, New Jersey, to discuss the proposed plan for the final on-Site groundwater remedy.

23. On September 10, 2012, EPA issued the ROD for Operable Unit 3 which selected a final remedy for on-site contaminated groundwater.

24. Cabot Corporation ("Cabot") is successor in interest to Kawecki-Berylco Industries, Inc. ("Kawecki"). Kawecki generated waste, including hazardous substances, and arranged to have its waste, including hazardous substances, transported to and disposed of at the Site.

25. Carpenter Technology Corporation ("Carpenter") generated waste, including hazardous substances, and arranged to have its waste, including hazardous substances, transported to and disposed of at the Site.

26. Ford Electronics and Refrigeration Corporation ("Ferco") assumed the assets and liabilities of the Philco-Ford Corporation ("Philco"). Philco generated waste, including hazardous substances, and arranged to have its waste, including hazardous substances, transported to and disposed of at the Site. Ferco is a former subsidiary of Ford Motor Company ("Ford").

27. International Flavor and Fragrances Inc. ("IFF") generated waste, including hazardous substances, and arranged to have its waste, including hazardous substances, transported to and disposed of at the Site.

28. Johnson Matthey Inc. ("Johnson") generated waste, including hazardous substances, and arranged to have its waste, including hazardous substances, transported to and disposed of at the Site.

29. RÜTGERS Organics Corporation ("RÜTGERS"), formerly Ruetgers-Nease Chemical Company, Inc., transported hazardous substances to the Site for disposal and/or treatment.

30. Spectraserv, Inc., formerly Modern Transportation, and A&S Transportation, Company, owned and/or operated at the Site at the time that hazardous substances were disposed of at the Site and also transported hazardous substances to the Site for disposal and/or treatment.

31. Waste Management of New Jersey, Inc. ("Waste Management") and CWM Chemical Services, LLC ("CWM") are successors in interest to SCA Chemical Services Inc., formerly SCA Services, Inc. SCA Chemical Services Inc. is successor in interest to Gaess Environmental Service Corporation. Gaess Environmental Service Corporation transported hazardous substances to the Site for disposal and/or treatment.

32. Spiral Metal Company, LLC is the current owner and/or operator of the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, as well as the Administrative Record supporting this Settlement Agreement, EPA has determined that:

33. The Evor Phillips Leasing Company Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

34. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

35. Each Settling Party is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

36. Each Settling Party is a responsible party as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Settlement Agreement under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Settling Parties are jointly and severally liable for performance of the Work under this Settlement Agreement and for payment of Future Response Costs under this Settlement Agreement.

a. Settling Party Spiral Metal Company, LLC is the "owner" and/or "operator" of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). Spiral Metal Company, LLC is, therefore, liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

b. Settling Parties Cabot Corporation; Carpenter Technology Corporation; Ford Motor Company; International Flavor and Fragrances Inc.; and Johnson Matthey Inc. arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of

hazardous substances at the facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3). Cabot Corporation; Carpenter Technology Corporation; Ford Motor Company; International Flavor and Fragrances Inc.; and Johnson Matthey Inc. are, therefore, liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

c. Settling Parties RÜTGERS Organics Corporation; Waste Management of New Jersey; CWM Chemical Services, LLC; and Spectraserv, Inc., accepted, hazardous substances for transport to the facility, within the meaning of Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4). RÜTGERS Organics Corporation and Spectraserv, Inc., are, therefore, liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

37. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from a facility as defined by Section 101(22) of CERCLA, 42 U.S.C.§ 9601(22).

38. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, are consistent with CERCLA and the NCP and will expedite effective remedial action and minimize litigation.

VI. SETTLEMENT AGREEMENT

39. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby agreed that Settling Parties shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement, and this Settlement Agreement constitutes an administrative settlement within the meaning of Sections 113(f)(3)(B) and 122 of CERCLA, 42 U.S.C.§§ 9613(f)(3)(B) and 9622.

VII. DESIGNATION OF PROJECT COORDINATORS

40. All work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Settling Parties shall retain one or more contractor(s) to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within 14 days of the Effective Date of this Settlement Agreement. Settling Parties shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least 14 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Settling Parties. If EPA disapproves of a selected contractor, Settling Parties shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within 14 days of EPA's disapproval. With respect to any contractor proposed to be Supervising Contractor, Settling Parties shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-

01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. EPA will issue a notice of disapproval or an authorization to proceed. Any decision not to require submission of the contractor's QMP should be documented in a memorandum from the Project Coordinator.

41. Within 14 days after the Effective Date, Settling Parties shall designate a Project Coordinator who shall be responsible for administration of all actions by Settling Parties required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Settling Parties shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 14 days following EPA's disapproval. Receipt by Settling Parties' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by all Settling Parties.

42. EPA has designated Richard Puvogel of the Emergency and Remedial Response Division, EPA Region 2, as its Project Coordinator for the Site. Except as otherwise provided in this Settlement Agreement, Settling Parties shall direct all submissions required by this Settlement Agreement to the Project Coordinator

43. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and an On-Scene Coordinator ("OSC") by the NCP. In addition, EPA's Project Coordinator shall have the authority, consistent with the NCP, to halt any Work required by this Settlement Agreement and to take any necessary response action when the EPA Project Coordinator determines that conditions at the Site may present an immediate endangerment to public health, welfare, or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

44. EPA and Settling Parties shall have the right, subject to Paragraph 41, to change their respective designated Project Coordinators. Settling Parties shall notify EPA 14 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

45. Settling Parties shall perform all action necessary to implement the Statement of Work.

46. Work Plan and Implementation.

a. Settling Parties shall, by no later than March 18, 2013, submit to EPA and the State a work plan for the design of the Remedial Action for OU3 for the Site ("Remedial Design Work Plan" or "RD Work Plan"). The RD Work Plan shall provide for design of the remedy set forth in the ROD, in accordance with the SOW and for achievement of the Performance Standards and other requirements set forth in the ROD, this Settlement Agreement, and/or the SOW. Upon its approval by EPA pursuant to Section IX (EPA Approval of Plans and Other Submissions), the RD Work Plan shall be incorporated into and become enforceable under this Settlement Agreement.

b. The RD Work Plan shall include plans and schedules for implementation of remedial design and pre-design tasks identified in the SOW, including, but not limited to, plans and schedules for the completion of: (1) a project schedule; (2) a description of all RD tasks; (3) a design sampling and analysis plan (including, but not limited to, a Remedial Design Quality Assurance Project Plan ("RD QAPP") in accordance with Paragraph 53 (Quality Assurance and Sampling); (4) a Construction Quality Assurance Plan; (5) a plan for renewal of CEA/WRA; (6) a description of property access needs; (7) a preliminary design report (35% complete); (8) and (8) a final design report (100% complete); In addition, the RD Work Plan shall include a schedule for completion of the Remedial Action Work Plan.

c. Upon approval of the RD Work Plan by EPA pursuant to Section IX (EPA Approval of Plans and Other Submissions), after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Parties shall implement the RD Work Plan. Settling Parties shall submit to EPA and the State all plans, submittals, and other deliverables required under the approved RD Work Plan in accordance with the approved schedule for review. Unless otherwise directed by EPA, Settling Parties shall not commence further Remedial Design activities at the Site prior to approval of the Remedial Design Work Plan.

d. The preliminary design report (35% complete) shall include, at a minimum, the following: (1) design criteria; (2) results of additional field sampling and pre-design work; (3) project delivery strategy; (4) preliminary plans, drawings, and sketches; (5) required specifications in outline form; and (6) a preliminary construction schedule.

e. The final design report (100% complete), shall include, at a minimum, the following: (1) final plans and specifications; (2) Operation and Maintenance Plan; (3) Construction Quality Assurance Project Plan ("CQAPP"); (4) Field Sampling Plan (directed at measuring progress towards meeting Performance Standards); and (5) Contingency Plan. The CQAPP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Project Coordinator, to conduct a quality assurance program during the construction phase of the project.

47. Health and Safety Plan. By no later than March 18, 2013, Settling Parties shall prepare and submit to EPA for review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement.

This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Settling Parties shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the response action.

48. Settling Parties shall conduct all work in accordance with the SOW, the ROD, CERCLA, the NCP, and all applicable EPA guidance. The Project Coordinator shall use his or her best efforts to inform Settling Parties if new or revised guidance may apply to the Work.

49. Settling Parties shall perform the tasks and submit the deliverables set forth in the SOW. EPA will approve, approve with conditions, modify, or disapprove each deliverable that Settling Parties submit under this Settlement Agreement and the SOW, pursuant to Section IX (EPA Approval of Plans and Other Submissions). Each deliverable must include all listed items as well as items that the RD Work Plan indicates Settling Parties shall prepare and submit to EPA for review and approval.

50. Upon EPA's approval, this Settlement Agreement incorporates any reports, plans, specifications, schedules, and attachments that this Settlement Agreement or the SOW requires. With the exception of extensions that EPA allows in writing or certain provisions within Section XVII of this Settlement Agreement (*Force Majeure*), any non-compliance with such EPA-approved reports, plans, specifications, schedules, and attachments shall be considered a violation of this Settlement Agreement and will subject Settling Parties to stipulated penalties in accordance with Section XVIII of this Settlement Agreement (Stipulated Penalties).

51. If any unanticipated or changed circumstances exist at the Site that may significantly affect the Work or schedule, Settling Parties shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of such circumstances. Such notification is in addition to any notification required by Section XVII (*Force Majeure*).

52. If EPA determines that additional tasks, including, but not limited to, additional investigatory work or engineering evaluation, are necessary to complete the Work, EPA shall notify Settling Parties in writing. Settling Parties shall submit a workplan to EPA for the completion of such additional tasks within 30 days of receipt of such notice, or such longer time as EPA agrees. The workplan shall be completed in accordance with the same standards, specifications, and requirements of other deliverables pursuant to this Settlement Agreement. EPA will review and comment on, as well as approve, approve with conditions, modify, or disapprove the workplan pursuant to Section IX (EPA Approval of Plans and Other Submissions). Upon approval or approval with modifications of the workplan, Settling Parties shall implement the additional work in accordance with the schedule of the approved workplan. Failure to comply with this Subsection, including, but not limited to, failure to submit a satisfactory workplan, shall subject Settling Parties to stipulated penalties as set forth in Section XVIII (Stipulated Penalties).

53. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Settling Parties shall ensure that the laboratory used to perform the analysis participates in a QA/QC program that complies with the appropriate EPA guidance. Settling Parties shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Settling Parties shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001), or equivalent documentation as determined by EPA.

b. Upon request by EPA, Settling Parties shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Settling Parties shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Settling Parties shall allow EPA or its authorized representatives to take split and/or duplicate samples. Settling Parties shall notify EPA not less than 7 days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Settling Parties to take split or duplicate samples of any samples it takes as part of its oversight of Settling Parties' implementation of the Work.

d. Settling Parties shall summarize and submit to EPA the results of all sampling and/or tests or other analytical data that they generated, or was/were generated on their behalf, with respect to implementing this Settlement Agreement in the monthly progress reports that the SOW requires. Settling Parties shall maintain custody of all information and data that the Final Remedial Design Report and any deliverable relied upon or referenced. Upon EPA's request, Settling Parties shall provide such information and data to EPA.

e. Settling Parties shall report all communications that they have with local, state, or other federal authorities related to the Remedial Design Work in the monthly progress reports.

f. If, at any time during the Remedial Design process, Settling Parties become aware of the need for additional data beyond the scope of the approved Work Plans, Settling Parties shall have an affirmative obligation to submit to EPA's Project Manager, within 20 days, a memorandum documenting the need for additional data.

54. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work, which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Parties shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release and shall immediately notify the EPA Project Manager, or, in the event of his/her unavailability, the Chief of the New Jersey Remediation Branch at (212) 637-4420, and the 24-hour EPA Superfund/Oil Emergency Hotline at (732) 548-8730 of the incident or Site conditions. Settling Parties shall take such actions in consultation with EPA's Project Manager, or other available authorized EPA officer, and in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to the SOW. In the event that Settling Parties fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Settling Parties shall reimburse EPA all costs of the response action not inconsistent with the NCP, pursuant to Section XV (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Settling Parties shall immediately notify the National Response Center at (800) 424-8802. Settling Parties shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken, or to be taken, to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

IX. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

55. After review of any plan, report, or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a notice to Settling Parties, EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Settling Parties modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Parties at least one notice of deficiency and an opportunity to cure within 14 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

56. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 55(a), (b), (c), or (e), Settling Parties shall proceed to take any action required by the plan, report, or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XVI (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Settling Parties shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA

modifies the submission to cure the deficiencies pursuant to Subparagraph 42(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVIII (Stipulated Penalties).

57. Resubmission.

a. Upon receipt of a notice of disapproval, Settling Parties shall, within 14 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVIII, shall accrue during the 14-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 58 and 59.

b. Notwithstanding the receipt of a notice of disapproval, Settling Parties shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Settling Parties of any liability for stipulated penalties under Section XVIII (Stipulated Penalties).

c. Settling Parties shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition, or modification of the RD Work Plan. While awaiting EPA approval, approval on condition, or modification of this deliverable, Settling Parties shall proceed with all other tasks and activities that may be conducted independently of this deliverable, in accordance with the schedule set forth under this Settlement Agreement.

d. For all remaining deliverables not listed above in Subparagraph 57(c), Settling Parties shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Settling Parties from proceeding further, either temporarily or permanently, on any task, activity, or deliverable at any point.

58. If EPA disapproves a resubmitted plan, report, or other deliverable, or portion thereof, EPA may again direct Settling Parties to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report, or other deliverable. Settling Parties shall implement any such plan, report, or deliverable as corrected, modified, or developed by EPA, subject only to Settling Parties' right to invoke the procedures set forth in Section XVI (Dispute Resolution).

59. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Settling Parties shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately, unless Settling Parties invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XVI (Dispute Resolution) and Section XVIII (Stipulated Penalties) shall govern the implementation

of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified, or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XVI, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVIII.

60. In the event that EPA takes over some of the tasks, Settling Parties shall incorporate and integrate information supplied by EPA into the final reports.

61. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and become enforceable under this Settlement Agreement.

X. PROGRESS REPORTS

62. Reporting.

a. Settling Parties shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every 30th day after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the Project Manager. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Settling Parties shall submit **2** copies of all plans, reports, or other submissions required by this Settlement Agreement, the Statement of Work, or any approved work plan. Upon request by EPA, Settling Parties shall submit such documents in electronic form.

63. Final Report. Within 21 days after completion of all Work required by this Settlement Agreement, Settling Parties shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include the following certification signed by a person who supervised or directed the preparation of that report:

> To the best of my knowledge, after thorough investigation, I certify that the information contained in, or accompanying, this submission is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

XI. SITE ACCESS AND INSTITUTIONAL CONTROLS

64. If any Settling Party owns or controls the Site, or any other property where access is needed to implement this Settlement Agreement, such Settling Party shall, commencing on the Effective Date, provide EPA and the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, to conduct any activity related to this Settlement Agreement. Settling Parties who own or control property at the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Settlement Agreement and written notice to EPA and the State of the proposed conveyance, including the name and address of the transferee. Settling Parties who own or control property at the Site also agree to require that their successors comply with the immediately preceding sentence, this Section, and Section XII (Access to Information).

65. Where any action under this Settlement Agreement is to be performed in areas owned by, or in possession of, someone other than Settling Parties, Settling Parties shall use their best efforts to obtain all necessary access agreements within 30 days after the Effective Date, or as otherwise specified in writing by the Project Manager. Settling Parties shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Settling Parties shall describe in writing their efforts to obtain access. EPA may then assist Settling Parties in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Settling Parties shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

66. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authority and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

67. If Settling Parties cannot obtain access agreements, EPA may obtain access for Settling Parties, perform those tasks or activities with EPA contractors, or terminate the Settlement Agreement. If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Settling Parties shall perform all other activities not requiring access to that site and shall reimburse EPA for all costs incurred in performing such activities. Settling Parties shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

XII. ACCESS TO INFORMATION

68. Settling Parties shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Settling Parties shall also make available to EPA and the State, for purposes

of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

69. Settling Parties may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA and the State, or if EPA has notified Settling Parties that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Settling Parties. Settling Parties shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Settling Parties assert business confidentiality claims.

70. Settling Parties may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Parties assert such a privilege in lieu of providing documents, they shall provide EPA and the State with the following: a) the title of the document, record, or information; b) the date of the document, record, or information; c) the name and title of the author of the document, record, or information; d) the name and title of each addressee and recipient; e) a description of the contents of the document, record, or information; and f) the privilege asserted by Settling Parties. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

71. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at, or around, the Site.

XIII. RECORD RETENTION

72. During the pendency of this Settlement Agreement and until 10 years after the Settling Parties' receipt of EPA's notification that work has been completed, each Settling Party shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after notification that work has been completed, Settling Parties shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature, or description relating to performance of the Work.

73. At the conclusion of this document retention period, Settling Parties shall notify EPA and the State at least 90 days prior to the destruction of any such documents, records, or other information and, upon request by EPA or the State, Settling Parties shall deliver any such documents, records, or other information to EPA or the State. Settling Parties may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Parties assert such a privilege, they shall provide EPA with the following: a) the title of the document, record, or other information; b) the date of the document, record, or other information; c) the name and title of the author of the document, record, or other information; d) the name and title of each addressee and recipient; e) a description of the subject of the document, record, or other information; and f) the privilege asserted by Settling Parties. However, no documents, records, or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

74. Each Settling Party hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents, or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site, and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XIV. COMPLIANCE WITH OTHER LAWS

75. Settling Parties shall undertake all action that this Settlement Agreement requires in accordance with the requirements of all applicable local, state, and federal laws and regulations, unless an exemption from such requirements is specifically provided by law or in this Settlement Agreement. The activities conducted pursuant to this Settlement Agreement, if approved by EPA, shall be considered consistent with the NCP.

76. Except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and the NCP, no permit shall be required for any portion of the Work conducted entirely on-site. Where any portion of the Work requires a federal or state permit or approval, Settling Parties shall submit timely applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

77. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XV. PAYMENT OF RESPONSE COSTS

78. Payment for Future Response Costs:

a. Settling Parties shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Settling Parties a bill requiring payment that

includes a SCORPIOS Report. Settling Parties shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 80 .

b. Settling Parties shall make all payments by Electronic Fund Transfer ("EFT") to the Federal Reserve Bank of New York. In order to effectuate an EFT payment, Settling Parties shall provide the following information:

(i) Amount of Payment: State Amount
(ii) Title of Federal Reserve Bank account to receive payment: EPA
(iii) Address of Federal Reserve Bank: 33 Liberty Street, New York, NY 10004
(iv) Account Code: 68010727
(v) ABA Routing Number: 021030004
(vi) Name of Party Making Payment: State Party(s) Name
(vii) Message in Field Tag 4200 of EFT: "D 68010727 Environmental Protection Agency"
(viii) Site/Spill Identifier: 0292
(ix) Swift Address: FRNYUS33

To ensure that a payment is properly recorded, a letter should be sent, within one week of the EFT, which references the date of the EFT, the payment amount, the name of the Site, the CERCLA Docket Number, and the name and address of the party(s) making payment to the United States to:

Rich Puvogel
Project Coordinator
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 19th Floor
New York, NY 10007

Re: Evor Phillips Leasing Company Superfund Site

And to:

Juan M. Fajardo
Assistant Regional Counsel
Office Of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007

Re: Evor Phillips Leasing Company Superfund Site

d. The total amount that Settling Parties shall pay pursuant to Subparagraph 78(a) shall be deposited in the Evor Phillips Leasing Superfund Special Account within the EPA

Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

79. In the event that the payments for Future Response Costs are not made within 30 days of Settling Parties' receipt of a bill, Settling Parties shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Settling Parties' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

80. Settling Parties may contest payment of any Future Response Costs billed under Paragraph 78, if they determine that EPA has made an accounting error, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Settling Parties shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 66. Simultaneously, Settling Parties shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Jersey and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Settling Parties shall send to the EPA Project Manager a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Settling Parties shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Settling Parties shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 78. If Settling Parties prevail concerning any aspect of the contested costs, Settling Parties shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 78. Settling Parties shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Settling Parties' obligation to reimburse EPA for its Future Response Costs.

XVI. DISPUTE RESOLUTION

81. Unless this Settlement Agreement expressly provides otherwise, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

82. If Settling Parties object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 14 days of such action, unless the objection(s) has/have been resolved informally. EPA and Settling Parties shall have 60 days from EPA's receipt of Settling Parties' written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

83. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the EPA Region 2 chief of the New Jersey Remediation Branch, Emergency and Remedial Response Division, level or higher will issue a written decision on the dispute to Settling Parties. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Settling Parties' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Settling Parties shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs. Settling Parties shall proceed in accordance with EPA's final decision regarding the matter in dispute, regardless of whether Settling Parties agree with the decision.

XVII. FORCE MAJEURE

84. Settling Parties agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Settling Parties, or of any entity controlled by Settling Parties, including, but not limited to, their contractors and subcontractors, that delays or prevents performance of any obligation under this Settlement Agreement despite Settling Parties' best efforts to fulfill the obligation. The requirement that Settling Parties exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential *force majeure* event: (a) as it is occurring; and (b) following the potential *force majeure* event, such that the delay is minimized to the greatest extent possible. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

85. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Settling Parties shall notify EPA orally within 48 hours of when Settling Parties first knew that the event might cause a delay. Within 14 days thereafter, Settling Parties shall provide to EPA in writing: an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Settling Parties' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Settling Parties, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Failure to comply with the above requirements shall preclude Settling Parties from asserting any claim of *force*

majeure for that event for the period of time of such failure to comply and for any additional delay caused by such failure. Settling Parties shall be deemed to know of any circumstance of which Settling Parties, any entity controlled by Settling Parties, or Settling Parties' contractors knew or should have known.

86. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Settling Parties in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Settling Parties in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

87. Settling Parties shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 88 and 89 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Settling Parties shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by, and approved under, this Settlement Agreement.

88. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 88(b):

Penalty Per Violation (Per Day)	**Period of Noncompliance (Days)**
$ 1,500	1-14
$ 3,000	15-30
$5,000	31-and beyond

b. Compliance Milestones

(i) Remedial Design Work Plan
(ii) Health and Safety Plan
(iii) Payment of Future Response Costs

(iv) Preliminary Design Report (35% complete)
(v) Final Design Report (100% complete)

89. Stipulated Penalty Amounts - Reports.

a. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other deliverables required by this Settlement Agreement or the SOW, including, but not limited to, the progress reports required by Paragraph 62 of this Settlement Agreement and the Final Report required by Paragraph 63 of this Settlement Agreement:

Penalty Per Violation (Per Day)	Period of Noncompliance (Days)
$500	1-14
$1,500	15-30
$3,000	31 and beyond.

90. For any other violations of this Settlement Agreement not specified above, stipulated penalties shall accrue in the amount of $350 per day, per violation, for the first 14 days of noncompliance; $500 per day, per violation for the 15th through the 30th day of noncompliance; and $1,000 per day, per violation, for all violations lasting beyond 30 days.

91. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 101, Settling Parties shall be liable for a stipulated penalty in the amount of $100,000.

92. All penalties shall begin to accrue on the day after the complete performance is due, or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: a) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Settling Parties of any deficiency; and b) with respect to a decision by the EPA Management Official at the EPA Region 2 chief of the New Jersey Remediation Branch, Emergency and Remedial Response Division, level or higher, under Paragraph 83 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

93. Following EPA's determination that Settling Parties have failed to comply with a requirement of this Settlement Agreement, EPA may give Settling Parties written notification of the failure and describe the noncompliance. EPA may send Settling Parties a written demand for

payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Settling Parties of a violation.

94. Settling Parties shall pay EPA all penalties accruing under this Section within 30 days of Settling Parties' receipt from EPA of a demand for payment of the penalties, unless Settling Parties invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by EFT in the manner described in Paragraph 78, above.

95. The payment of penalties shall not alter in any way Settling Parties' obligation to complete performance of the Work required under this Settlement Agreement.

96. Penalties shall continue to accrue during any dispute resolution period but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

97. If Settling Parties fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Settling Parties shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 94. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Settling Parties' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 101. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XIX. COVENANT NOT TO SUE BY EPA

98. In consideration of the actions that Settling Parties will perform and the payments that Settling Parties will make under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Settling Parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work performed under this Settlement Agreement and for recovery of Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon Settling Parties' complete and satisfactory performance of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Settling Parties and does not extend to any other person.

XX. RESERVATION OF RIGHTS BY EPA

99. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, except as specifically provided in this Settlement Agreement, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Settling Parties in the future to perform additional activities pursuant to CERCLA or any other applicable law.

100. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to all other matters, including, but not limited to:

a. claims based on a failure by Settling Parties to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definition(s) of Future Response Costs;

c. liability for performance of all response action(s) other than the Work;

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release, or threat of release of Waste Materials outside of the Site; and

g. liability for costs incurred, or to be incurred, by the Agency for Toxic Substances and Disease Registry related to the Site.

101. Work Takeover. In the event EPA determines that Settling Parties have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may assume the performance of any or all portion(s) of the Work as EPA determines necessary. Settling Parties may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs that the United States incurs in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Parties shall pay pursuant to Section XV (Payment of Response Costs). Notwithstanding

any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY SETTLING PARTIES

102. Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at, or in connection with, the Site, including any claim under the United States Constitution, the [State] Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Future Response Costs.

103. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues a Settlement Agreement pursuant to the reservations set forth in Subparagraphs 101(b), (c), and (e) - (g), but only to the extent that Settling Parties' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

104. Settling Parties reserve, and this Settlement Agreement is without prejudice to, claims against the United States subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of Settling Parties' plans or activities. The foregoing applies only to claims that are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

105. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

106. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Settling Parties. The United States or EPA shall not be deemed a party to any contract entered into by Settling Parties or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

107. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of, or release from, any claim or cause of action against Settling Parties or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including, but not limited to, any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

108. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION PROTECTION

109. The Parties agree that this Settling Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Parties are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2), 42 U.S.C. § 9613(f)(2), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Future Response Costs.

110. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Settling Parties, as of the Effective Date, resolved its liability to the United States for Work and Future Response Costs.

111. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Each Party expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. §§ 9613) defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party to this Settlement Agreement. Nothing in this Settlement Agreement diminishes the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and (3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2).

XXIV. INDEMNIFICATION

112. Settling Parties shall indemnify, save, and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Settling Parties agree to pay the United States all costs incurred by the United States, including, but not limited to, attorneys fees and other expenses of litigation and settlement, arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into, by, or on behalf of Settling Parties in carrying out activities pursuant to this Settlement Agreement. Neither Settling Parties nor any such contractor shall be considered an agent of the United States.

113. The United States shall give Settling Parties notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Settling Parties prior to settling such claim.

114. Settling Parties waive all claims against the United States for damages or reimbursement or for set-off of any payments made, or to be made, to the United States, arising from, or on account of, any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on, or relating to, the Site, including, but not limited to, claims on account of construction delays. In addition, Settling Parties shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from, or on account of, any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on, or relating to, the Site.

XXV. INSURANCE

115. At least 10 days prior to commencing any on-Site Work under this Settlement Agreement, Settling Parties shall secure and shall maintain for the duration of this Settlement Agreement comprehensive general liability insurance and automobile insurance with limits of $3 million dollars, combined single limit, naming the EPA as an additional insured. Within the same period, Settling Parties shall provide EPA with certificates of such insurance and a copy of each insurance policy. Settling Parties shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Settling Parties shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Parties in furtherance of this Settlement Agreement. If Settling Parties demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Settling Parties need

provide only that portion of the insurance described above that is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

116. Within 30 days of the Effective Date, Settling Parties shall establish and maintain financial security for the benefit of EPA in the amount of $100,000 in one or more of the following forms, to secure the full and final completion of Work by Settling Parties:

a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;

c. a trust fund administered by a trustee acceptable in all respects to EPA;

d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work by one or more of Settling Parties, including a demonstration that any such Settling Party satisfies the financial test requirements of 40 C.F.R. Part 264.143(f).

117. If Settling Parties seek to provide a demonstration under 40 C.F.R. Part 264.143(f) and has provided a similar demonstration at other RCRA or CERCLA sites, the amount for which Settling Parties are providing financial assurance at those sites should be added to the estimated costs of the Work for Paragraph 116. Settling Parties must prove documentation of the prior demonstration currently in effect.

118. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Settling Parties shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 116, above. In addition, if at any time EPA notifies Settling Parties that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Settling Parties shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Settling Parties' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

119. If Settling Parties seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 116(e) of this Settlement Agreement, Settling Parties shall: (i)

demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of $100,000 for the Work at the Site shall be used in relevant financial test calculations.

120. If, after the Effective Date, Settling Parties can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 116 of this Section, Settling Parties may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Settling Parties shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Settling Parties may seek dispute resolution pursuant to Section XVI (Dispute Resolution). Settling Parties may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

121. Settling Parties may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Parties may change the form of financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

122. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into, and enforceable under, this Settlement Agreement constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

123. In the event of a conflict between any provision of this Settlement Agreement and the provisions of any document attached to this Settlement Agreement or submitted or approved pursuant to this Settlement Agreement, the provisions of this Settlement Agreement shall control.

124. The following documents are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the SOW.

"Appendix B" is the ROD.

XXVIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

125. This Settlement Agreement shall be effective on the date that the Settlement Agreement is signed by the Director of the Emergency and Remedial Response Division of EPA Region 2 or his delegate.

126. This Settlement Agreement may be amended by mutual agreement of EPA and Settling Parties. Amendments shall be in writing and shall be effective when signed by EPA. Neither EPA Project Coordinators nor EPA RPMs have the authority to sign amendments to the Settlement Agreement.

127. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXIX. NOTICE OF COMPLETION OF WORK

128. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with the other requirements of this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including, but not limited to, payment of Future Response Costs or record retention, EPA will provide written notice to Settling Parties. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Settling Parties, provide a list of the deficiencies, and require that Settling Parties modify the Work Plan if appropriate to correct such deficiencies. Settling Parties shall implement the modified and approved Work Plan and shall submit the required deliverables. Failure by Settling Parties to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXX. CONSENT

129. The Settling Parties identified below have had an opportunity to confer with EPA regarding this Settlement Agreement. Settling Parties hereby consent to the issuance of this Settlement Agreement and to its terms. The individual executing this Settlement Agreement of behalf of Settling Parties certifies under penalty of perjury under the laws of the United States and of the State of Settling Parties' incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Settling Parties thereto.

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL DESIGN

In the Matter of the Evor Phillips Leasing Company Superfund Site
CERCLA Docket No. 02-2013-2010

For The United States Environmental Protection Agency:

It is so ORDERED AND AGREED this 14th day of MARCH, 2013.

BY: _____
Walter Mugdan, Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2

For Settling Party Cabot Corporation:

Agreed to this 6th day of February, 2013

Signature: _____

Name (print): Brian A. Berube

Title: Senior Vice President and General Counsel

Address: Two Seaport Lane

Suite 1300

Boston, MA 02210

For Settling Party Carpenter Technology Corporation

Agreed to this 11 day of February, 2013

Signature: Carol L Loury

Name (print): Carol L Loury

Title: Associate General Counsel

Address: 101 N. Bern Street

Reading, PA 19601

For Settling Party CWM Chemical Services, LLC

Agreed to this ___ day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

For Settling Party Carpenter Technology Corporation

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party CWM Chemical Services, LLC

Agreed to this 20th day of February, 2013

Signature: [signature]

Name (print): Stephen T. Joyce

Title: Director - CSMG EAST

Address: 4 Liberty Lane West

Hampton, NH 03842

Attn: Waste Management.

For Settling Party Ford Motor Company

Agreed to this 5th day of February, 2013

Signature: Louis J. Ghilardi

Name (print): Louis J. Ghilardi

Title: Assistant Secretary

Address: c/o DAVID WITTEN

ONE AMERICAN RD, RM. 907-A2

DEARBORN, MI 48126

For Settling Party International Flavors and Fragrances Inc.

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party Ford Motor Company

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party International Flavors and Fragrances Inc.

Agreed to this 6 day of FEB, 2013

Signature: Joseph F Leightner

Name (print): JOSEPH F LEIGHTNER

Title: ASSISTANT GENERAL COUNSEL

Address: INTERNATIONAL FLAVORS & FRAGRANCES INC

521 W 57TH ST

NEW YORK, NY, 10019

For Settling Party Johnson Matthey Inc.

Agreed to this 31st day of Jan., 2013

Signature: [signature]

Name (print): Robert M. Talley

Title: President - Corporate, General Counsel + Secretary

Address: Johnson Matthey Inc.

425 Devon Park Drive, Suite 600

Wayne, PA 19087-1998

For Settling Party RÜTGERS Organics Corporation

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party Johnson Matthey Inc.

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party RÜTGERS Organics Corporation

Agreed to this 8th day of February 2013

Signature: Rainer Domaschke

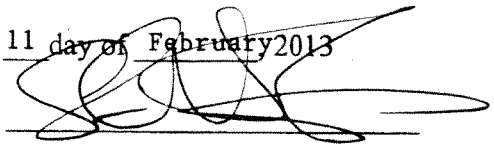
Name (print): Rainer Domaschke

Title: President & CEO

Address: 201 Struble Road
State College, PA
16801

For Settling Party Spectraserv, Inc.

Agreed to this 11 day of February 2013

Signature: 

Name (print): Steven A. Townsend

Title: President

Address: Spectraserv Inc

75 Jacobus Avenue

Kearny, NJ 07032

For Settling Party Spiral Metal Company, LLC

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

Address: _____

_____

_____

For Settling Party Spectraserv, Inc.

Agreed to this ___day of _____, 2013

Signature: _____

Name (print): _____

Title: _____

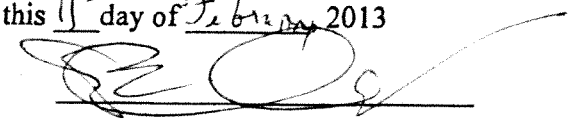
Address: _____

_____

_____

For Settling Party Spiral Metal Company, LLC

Agreed to this 11th day of February 2013

Signature: 

Name (print): STEVEN MARKOFF

Title: CHAIN

Address: 233 Wilshire Blvd. Suite 200
SANTA MONICA, CA 90401

_____

For Settling Party Waste Management of New Jersey, Inc.

Agreed to this 20th day of February 2013

Signature: _____

Name (print): Stephen T. Joyce

Title: Director - CSMG EAST

Address: 4 Liberty Lane West
Hampton, NH 03842
Attn: Waste Management